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Discrimination and Protection
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REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH
THE SUB-COMMISSION HAS BEEN CONCERNED

Note by the Secretary-General

1. Pursuant to Sub-Commission resolution 5 (XIV), the present note reviews developments between 16 June 1991 and 15 July 1992 in fields with which the Sub-Commission has been previously concerned. It supplements those questions which are dealt with in the annotations to the provisional agenda for the forty-fourth session of the Sub-Commission (E/CN.4/Sub.2/1992/1/Add.1).

Status and implementation of the International Covenants on Human Rights

2. The status of the International Covenants on Human Rights and the Optional Protocols to the International Covenant on Civil and Political Rights at 31 December 1991 is described in chapter IV of Multilateral Treaties Deposited with the Secretary-General, Status as at 31 December 1991 (ST/LEG/SER.E/10).

3. At 15 July 1992, the International Covenant on Economic, Social and Cultural Rights had been ratified or acceded to by 115 States, the International Covenant on Civil and Political Rights had been ratified or acceded to by 112 States and the Optional Protocol to the International Covenant on Civil and Political Rights had been ratified or acceded to by 66 States.

4. The General Assembly, at its forty-fourth session, in resolution 44/128 of 15 December 1989, adopted and opened for signature and ratification on 15 December 1989 the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

5. As at 15 July 1992, the Second Optional Protocol had been ratified by or acceded to by 11 States*. It entered into force on 11 July 1991, three months after the date of deposit with the Secretary-General of the tenth instrument of ratification or accession.

Committee on Economic, Social and Cultural Rights

6. At its sixth session, held from 25 November to 13 December 1991, the Committee considered nine reports submitted by seven States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights. During the session, the Committee also held a general discussion on economic and social indicators and their role in the realization of economic, social and cultural rights. In addition, it adopted General Comment No. 4 (1991) which dealt with the right to adequate housing. A report on the Committee's sixth session was submitted to the Economic and Social Council (E/1992/23-E/C.12/1991/4).

Human Rights Committee

7. During its forty-second, forty-third and forty-fourth sessions held in July, October/November 1991 and March/April 1992, respectively, the Committee considered two initial reports, six second periodic reports and five third periodic reports submitted to it under article 40 of the International Covenant on Civil and Political Rights. At its forty-fourth session, the Committee adopted General Comments Nos. 20 (44) and 21 (44) on articles 7 and 10 which replaced its earlier General Comments on the same subject (Nos. 7 (16) and 9 (16) respectively).

8. During the three sessions, the Committee also adopted 14 views under article 5, paragraph 4, of the Optional Protocol to the Covenant, and took 17 decisions declaring communications inadmissible under the Optional Protocol. A report on the Committee's fortieth to forty-second sessions was submitted to the General Assembly at its forty-sixth session (A/46/40) and a report on its forty-third to forty-fifth sessions will be submitted to the General Assembly following the Committee's forty-fifth session, in July 1992 (A/47/40).

9. The General Assembly, at its forty-sixth session, adopted resolution 46/113 of 17 December 1992 concerning the International Covenants on Human Rights. In that resolution, the General Assembly, *inter alia*, urged States parties to the International Covenants on Human Rights to pay active attention to the protection and promotion of civil and political rights, as well as economic, social and cultural rights, taking into consideration their indivisible and interrelated character and the fact that the promotion and

* In addition, the former German Democratic Republic had ratified the Second Optional Protocol on 16 August 1990.

protection of one category of rights should never exempt or excuse States from the promotion and protection of other rights; it also urged States parties to fulfil their reporting obligations under the International Covenants on Human Rights; it again urged all States that have not yet done so to become parties to the International Covenants and to consider acceding to the Optional Protocols to the International Covenant on Civil and Political Rights; it requested the Secretary-General to keep the Human Rights Committee and the Committee on Economic, Social and Cultural Rights informed of the relevant activities of the other treaty bodies, the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and, as appropriate, the specialized agencies, and also to transmit the annual reports of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to those bodies; and it encouraged all Governments to publish the texts of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocols in as many languages as possible and to distribute them and make them known as widely as possible in their territories.

10. The Commission on Human Rights, at its forty-eighth session, adopted resolution 1992/14 of 21 February 1992 concerning the status of the International Covenants on Human Rights. In that resolution, the Commission, inter alia, invited the Secretary-General to intensify systematic efforts to encourage States to become parties to the Covenants and, through the programme of advisory services in the field of human rights, to provide such services as may be sought by States that are not parties to the Covenants, with a view to assisting them to ratify them or accede thereto; it recommended that States parties periodically review any reservations made in respect of the provisions of the International Covenants on Human Rights to ascertain whether they should be maintained; it invited States parties to give particular attention to dissemination at the national level of the reports they have submitted to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights and to the summary records relating to the examination of those reports by the Committees; and it requested the Secretary-General to consider ways and means of assisting States parties to the Covenants in the preparation of their reports, including seminars or workshops at the national level for the purpose of training government officials engaged in the preparation of such reports, and the exploration of other possibilities available under the regular programme of advisory services in the field of human rights.

Status of the International Convention on the Elimination of All Forms of Racial Discrimination

11. At 15 July 1992, 132 States had ratified or acceded to the International Convention on the Elimination of All Forms of Racial Discrimination.

Committee on the Elimination of Racial Discrimination

12. At its fortieth session, held from 5 to 23 August 1991, the Committee continued consideration of reports, comments and information submitted by States parties under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination; communications under article 14 of the Convention; and copies of petitions, reports and other information relating to Trust and Non-Self-Governing Territories and to all

other territories to which General Assembly resolution 1514 (XV) applied, in conformity with article 15 of the Convention. The Committee also considered issues dealing with the projected Third Decade to Combat Racism and Racial Discrimination, the World Conference on Human Rights, reporting obligations of States parties to United Nations conventions on human rights, and sources of information. The report on the Committee's fortieth session was submitted to the General Assembly at its forty-sixth session (A/46/18).

13. The General Assembly, at its forty-sixth session, adopted resolution 46/83 of 16 December 1991 concerning the report of the Committee, inter alia, expressing its profound concern at the fact that a number of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination had still not fulfilled their financial obligations; strongly appealing to all States parties, especially those in arrears, to fulfil their financial obligations; requesting the Secretary-General to invite those States parties which were in arrears to pay the amounts in arrears, and to report thereon to the General Assembly at its forty-seventh session; and deciding to consider the report of the Secretary-General on the financial situation of the Committee and the report of the Committee on its activities at its forty-seventh session under the agenda item entitled "Elimination of all forms of racial discrimination".

Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid

14. At 15 July 1992, there were 93 States parties to the Convention.

15. The General Assembly, at its forty-sixth session, in resolution 46/84 of 16 December 1991, inter alia, appealed once again to those States that had not yet done so to ratify or to accede to the Convention without further delay; it requested the Commission on Human Rights to intensify, in cooperation with the Special Committee against Apartheid, its efforts to compile and update periodically the list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, as well as those against whom legal proceedings had been undertaken; and it requested the Secretary-General to intensify his efforts, through appropriate channels, to disseminate information on the Convention and its implementation with a view to promoting further ratification or accession to the Convention.

16. It should be noted in this respect that the Commission on Human Rights, at its forty-seventh session, by its resolution 1991/10 of 22 February 1991 decided, inter alia, that, henceforth, the Group of Three established under the Convention should meet every two years rather than annually to consider reports submitted by States parties in accordance with article VII of the Convention. Thus, the Group of Three was not scheduled to meet during 1992.

Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

17. At 15 July 1992, the Convention had been ratified or acceded to by 67 States. In addition, 15 States had signed the Convention.

Committee against Torture

18. At its seventh and eighth sessions, held from 11 to 22 November 1991 and 27 April to 8 May 1992, respectively, the Committee considered 10 initial reports submitted to it under article 19 of the Convention. A report on the Committee's seventh and eighth sessions has been submitted to the General Assembly at its forty-seventh session (A/47/46).

19. The Commission on Human Rights, at its forty-eighth session, adopted resolution 1992/25 of 28 February 1992, concerning the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this resolution, the Commission, *inter alia*, welcomed the report of the Committee against Torture; stressed the importance of strict adherence by States parties to the obligations under the Convention regarding the financing of the Committee against Torture; urged all States to become parties to the Convention as a matter of priority and invited all States ratifying or acceding to the Convention to consider the possibility of making the declaration provided for in articles 21 and 22 of the Convention. The Commission further requested the Secretary-General to ensure the provision of appropriate staff and facilities for the effective performance of the functions of the Committee against Torture.

Status of the Convention on the Rights of the Child

20. The Convention on the Rights of the Child was adopted by the General Assembly in its resolution 44/25 of 20 November 1989. It was opened for signature, ratification and accession, in New York, on 26 January 1990 and entered into force on 2 September 1990, following the receipt of the twentieth instrument of ratification or accession.

21. As at 15 July 1992, 120 States had ratified or acceded to the Convention. In addition, 29 States had signed the Convention.

22. The General Assembly, at its forty-sixth session, and the Commission on Human Rights, at its forty-eighth session, adopted resolution 46/112 of 17 December 1991 and resolution 1992/75 of 5 March 1992, respectively, concerning the Convention on the Rights of the Child. In these resolutions the General Assembly and the Commission on Human Rights, *inter alia*, welcomed with deep satisfaction the entry into force of the Convention; called upon all Member States to sign, ratify or accede to the Convention as a matter of priority; emphasized the importance of the strictest compliance by States parties with their obligations under the Convention; requested the Secretary-General to ensure the provision of appropriate staff and facilities for the effective performance of the functions of the Committee on the Rights of the Child; invited United Nations bodies and organizations as well as intergovernmental and non-governmental organizations to intensify their efforts with a view to disseminating information on the Convention; requested the Secretary-General to make the necessary resources available to enable the Working Group of the whole of the Committee to meet in 1992 subsequent to the second session of the Committee; and also requested the Secretary-General to submit to the General Assembly at its forty-seventh session and the Commission on Human Rights at its forty-ninth session a report on the status of the Convention on the Rights of the Child.

23. The first session of the Committee on the Rights of the Child was held from 30 September to 18 October 1991. At that session, the Committee adopted its provisional rules of procedure and general guidelines regarding the form and contents of initial reports to be submitted by States parties under article 44, paragraph 1 (a), of the Convention. In addition, the Committee considered issues relating to the sessions of the Committee or its subsidiary bodies; sources of information; relations with other United Nations organs and treaty bodies; public information activities; and the World Conference on Human Rights. The second session of the Committee is scheduled to take place in Geneva from 28 September to 9 October 1992.

Effective implementation of international instruments on human rights including reporting obligations of States parties to United Nations instruments in the field of human rights

24. The General Assembly, at its forty-sixth session, adopted resolution 46/111 of 17 December 1991, entitled "Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights". In this resolution, the General Assembly, *inter alia*, requested the Secretary-General to give high priority to establishing a computerized database; endorsed the recommendation of the meeting of persons chairing human rights treaty bodies, that the General Assembly should take appropriate measures to ensure the financing of each of the committees from the United Nations regular budget; invited States parties to the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to consider, as a matter of priority, all possibilities for putting arrangements for meeting the costs of implementing these treaties on a viable, guaranteed basis, including by considering possible amendment to the funding provisions of these treaties; requested the Secretary-General to take the appropriate steps in order to finance the biennial meetings of persons chairing the human rights treaty bodies from the available resources of the regular budget of the United Nations; and decided to give priority consideration at its forty-seventh session to the conclusions and recommendations of the meetings of persons chairing treaty bodies, in the light of the deliberations of the Commission on Human Rights.

25. In addition, in its decision 46/429, the General Assembly requested the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to consider, at their meeting in January 1992, a proposed amendment submitted by the Government of Australia under which the financing of the activities of the Committee on the Elimination of Racial Discrimination would be provided through the regular budget of the United Nations. The proposed amendment was considered and adopted at the fourteenth meeting of States parties to that Convention held on 15 January 1992 and the matter is expected to be taken up again by the General Assembly at its forty-seventh session.

26. The Commission on Human Rights, at its forty-eighth session, adopted resolution 1992/15 of 21 February 1992, entitled "Effective functioning of bodies established pursuant to United Nations human rights instruments". In this resolution, the Commission, *inter alia*, urged all States parties to meet

without delay all their financial obligations pursuant to United Nations human rights instruments; requested the Secretary-General to give consideration to the proposal endorsed by the second and third meetings of persons chairing the human rights treaty bodies and the Committee on Economic, Social and Cultural Rights to establish a committee resource room for the purpose of gathering and facilitating access to the various sources of information that are indispensable for the effective functioning of the various treaty bodies; requested the Secretary-General to submit to the General Assembly, at its forty-seventh session, a further report examining the financial, legal and other implications of providing full funding for the operation of all human rights treaty bodies; urged the Secretary-General to give priority to expediting the implementation of the recommendations of the Task Force on Computerization as soon as possible by requesting Member States, in particular States that are parties to various human rights instruments, to make generous voluntary contributions to cover the initial one-time cost of the proposed system; and decided to consider the question on a priority basis at its forty-ninth session under the agenda item entitled "Effective functioning of bodies established pursuant to United Nations human rights instruments".

The right of peoples to self-determination

27. At its forty-sixth session, the General Assembly adopted resolutions 46/87 and 46/88 of 16 December 1991 with respect to the right of peoples to self-determination, and resolution 46/89 of 16 December 1991 on the use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination.

28. In these resolutions, the General Assembly, inter alia, called upon all States to implement all the resolutions of the United Nations regarding the exercise of the right to self-determination and independence by peoples under colonial and foreign domination; reaffirmed the legitimacy of the struggle in all its forms of peoples for independence, territorial integrity, national unity and liberation from colonial domination, apartheid and foreign occupation by all available means; and called upon those Governments that did not recognize the right to self-determination and independence of all peoples still under colonial domination, alien subjugation and foreign occupation to do so.

29. The General Assembly also reaffirmed the inalienable right of the Palestinian people and all peoples under foreign occupation and colonial domination to self-determination, national independence, territorial integrity, national unity and sovereignty without foreign interference. It also urged assistance in the reconstruction and economic development of Namibia. The Government of South Africa was strongly urged to respond positively to the provisions of the Declaration of the Organization of African Unity Ad Hoc Committee on southern Africa on the question of South Africa, and the Declaration on Apartheid and its Destructive Consequences in southern Africa; the Assembly further determined that the South African racist regime must take additional steps to implement fully the profound and irreversible changes called for in the Declaration on Apartheid. The Assembly again demanded the immediate application of the mandatory arms embargo against South Africa by all countries.

30. The General Assembly strongly condemned the continued violation of the human rights of the peoples still under colonial domination and alien subjugation and demanded the immediate and unconditional release of all persons detained or imprisoned as a result of their struggle for self-determination and independence. The practice of using mercenaries was characterized as a threat to international peace and security. All States were urged to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to ensure, by both administrative and legislative measures, that their territory and other territories under their control, as well as their nationals, were not used for the recruitment, assembly, financing, training and transit of mercenaries, or for the planning of activities designed to destabilize or overthrow the Government of any State and to fight the national liberation movements struggling against racism, apartheid, colonial domination and foreign intervention or occupation. The Assembly called upon them to extend humanitarian assistance to victims of situations resulting from the use of mercenaries, as well as from colonial or alien domination or foreign occupation.

31. Furthermore, the Assembly reaffirmed the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination as a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights, and declared its firm opposition to acts of foreign military intervention, aggression and occupation.

32. The General Assembly deplored the plight of the millions of refugees and displaced persons who had been uprooted as a result of the aforementioned acts, and reaffirmed their right to return to their homes voluntarily in safety and honour.

33. The Commission on Human Rights was requested to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation.

34. The Commission on Human Rights, at its forty-eighth session, adopted resolution 1992/6 entitled "Use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination", as well as resolutions 1992/18 on the question of western Sahara and 1992/3 on Israeli settlements in the occupied Arab territories.

Protection of persons with mental illnesses

35. At its forty-seventh session, the Commission on Human Rights examined the draft body of principles for the protection of persons with mental illness and for the improvement of mental health care (E/CN.4/1991/39). By resolution 1991/46, the Commission endorsed the draft body of principles and recommended to the Economic and Social Council that it submit the draft body of principles to the General Assembly.

36. The Economic and Social Council, by its resolution 1991/29 of 31 May 1991, decided to submit to the General Assembly the draft body of principles and the report of the working group of the Commission on Human Rights at its forty-sixth session, with a view to the adoption of the body of principles.

37. The General Assembly, by resolution 46/119 of 17 December 1991, adopted, at its forty-sixth session, the Principles for the protection of persons with mental illness and for the improvement of mental health care and requested the Secretary-General to give the widest possible dissemination of the text of the Principles.

Question of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms

38. The working group established by Commission on Human Rights decision 1984/116 of 16 March 1984 to draft a declaration on this subject held its seventh session from 13 to 24 January 1992.

39. The Commission on Human Rights, by its resolution 1992/82, decided to continue at its forty-ninth session its work on the draft declaration and recommended to the Economic and Social Council that it authorize a working group to meet for a period of two weeks prior to its forty-ninth session.

Hostage-taking

40. At its forty-first session, in 1989, the Sub-Commission adopted resolution 1989/26 in which it condemned hostage-taking and the torture and murder which frequently accompanied such practice and requested that all States take steps to prevent hostage-taking and to bring to trial anyone who might participate in such acts.

41. At its forty-seventh session, the Commission on Human Rights, by its resolution 1991/40, affirmed that the taking of hostages constituted a grave violation of human rights, condemned such acts and decided to remain seized of the question at its forty-ninth session.

Draft declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities

42. The open-ended working group set up by Commission on Human Rights decision of 8 February 1978 to draft a declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities met at its last session from 2 to 13 December 1991, completed the second reading of the draft declaration and submitted the text of the draft declaration to the Commission on Human Rights at its forty-eighth session for approval.

43. The Commission on Human Rights, by its resolution 1992/16, endorsed the draft declaration (E/CN.4/1992/48 and Corr.1, Annex I) and recommended to the Economic and Social Council that it approve and submit the draft declaration to the General Assembly at its forty-sixth session for the adoption and further action by the Assembly.

World Conference on Human Rights

44. Pursuant to General Assembly resolution 45/155, of 18 December 1990, the Preparatory Committee for the World Conference on Human Rights held its first session in Geneva from 9-13 September 1991. The Preparatory Committee decided, in its report (A/46/24), to recommend to the General Assembly that it adopt a number of decisions related to the preparatory process leading up to the World Conference in 1993.

45. In resolution 46/116, of 17 December 1991, the General Assembly took note with appreciation of the report of the Preparatory Committee. It decided, inter alia, that the Preparatory Committee would meet for three further sessions in 1992 and 1993, and that the Committee should base the elaboration of the agenda for the World Conference on paragraph 1 of resolution 45/155, that the widest possible publicity be given to the Conference and that regional meetings be convened for each region that so desires, within the institutional framework or with the assistance of the regional commissions. It also decided to request that the Secretary-General prepare a number of studies and other documentation for the World Conference.

46. The Preparatory Committee met in Geneva from 30 March to 10 April 1992, in accordance with General Assembly resolution 46/116. It decided to modify the criteria for the administration of the voluntary fund for the participation of representatives of least developed countries, took note of the reports on public information activities and on other meetings related to the preparatory process, and made a recommendation to the General Assembly as to the dates and venue of the Conference. The Preparatory Committee also decided to hold its third session in Geneva from 14-18 September and decided to recommend proposed rules of procedure, with two reservations, to the General Assembly for adoption.

47. On 6 May 1992, at its resumed forty-sixth session, the General Assembly decided to accept the invitation of the Government of Austria to convene the World Conference on Human Rights in Vienna in the last two weeks of June 1993.
